



# *Federal Flyer*

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## **House Approves National Motor Carrier Safety Administration Bill Measure Sets Up Separate Truck Safety Enforcement Agency**

On October 14, 1999 the U.S. House of Representatives voted 415-5 to create the National Motor Carrier Safety Administration (NMCSA) with passage of H.R. 2679, the Motor Carrier Safety Act. Effective October 1, 2000, this measure would move the administration of the nation's motor carrier safety programs currently managed by the Federal Highway Administration into a completely separate agency within the U.S. Department of Transportation.

Passage of H.R. 2679 follows close on the heels of enactment of the FY 2000 Transportation Appropriations Act, which contains a provision limiting funding for FHWA's motor carrier activities until a separate agency for those programs is established. Appropriators in the House, particularly **Transportation Appropriations Subcommittee Chairman Frank Wolf** (R – VA) expressed frustration with FHWA's handling of its motor carrier safety programs and called for the separate agency. The Secretary of Transportation earlier this month transferred all authority for motor carrier safety and operations from the FHWA to the new Office of Motor Carrier Safety as required by the FY 2000 DOT Appropriations Act. The Transportation and Infrastructure Committee responded to the appropriators' action with passage of H.R. 2679 out of committee in early August.

**Structure and Funding.** Within NMCSA, H.R. 2769 also establishes the Office of Passenger Vehicle Safety to oversee bus-related safety issues, the Office of Consumer Affairs to address consumer-related concerns, and the Office of International Affairs to oversee truck safety programs at U.S. borders with Mexico and Canada. The measure authorizes an additional \$420 million from the Highway Trust Fund for Fiscal Years 2001 through 2003 for the motor carrier safety assistance program (MCSAP). The bill also increases the amount of guaranteed funding provided in the Transportation Equity Act for the 21<sup>st</sup> Century (TEA 21) for MCSAP by \$65 million for each of Fiscal

Years 2001-2003. In order to offset the part of this increase in funding, the bill amends TEA 21 to reduce the obligation ceiling for the federal-aid highways program by \$65 million per year in Fiscal Years 2001-2003. The Transportation and Infrastructure Committee expects the increase in MCSAP funding provided in H.R. 2679 to allow states to hire more inspectors and safety personnel. The Congressional Budget Office estimates that enactment of the bill will result in additional discretionary spending of approximately \$340 million over the FY 2001-2004 period, assuming appropriation actions consistent with the bill.

**Limitation on Mexican Trucks in the U.S.** H.R. 2679 also establishes civil penalties and permits the NMCSA to disqualify foreign carriers that intentionally operate without authorization outside the boundaries of a commercial zone along the U.S.-Mexico border. The *Boston Globe* reports that this provision, which was strongly advocated by the International Brotherhood of Teamsters for several years, reflects mounting opposition in Congress and in the Clinton Administration to opening the border to Mexican trucks, as required by the North American Free Trade Agreement. Mexican trucks were supposed to be allowed access to U.S. border states in 1995. That timetable has been pushed back twice amid intense pressure from organized labor, which is concerned about the safety of Mexican trucks and competition from Mexican shippers. The NAFTA treaty calls for lifting the ban on Mexican trucks nationwide on January 1, 2000; however, President Clinton recently said that he has no intention of honoring that timetable.

Currently in Texas, the Texas Department of Public Safety issues traffic citations to Mexican trucks found outside the designated commercial zones. Unless those trucks are determined to be in violation of state law governing vehicle size and weight, insurance, or motor carrier safety regulations, however, they are allowed to continue operating. The federal government would prefer

that the trucks be required to return to the commercial zones or to Mexico. H.R. 2679 reflects the federal perspective by proposing civil penalties for such operation outside the U.S.-Mexico border commercial zones.

The House measure would levy fines of up to \$25,000 on Mexican trucking companies whose drivers venture beyond the commercial zones. Commercial zones are limited areas anywhere from three to 20 miles inside the U.S. border where Mexican trucks must off-load their cargo and transfer it to American shippers. According to the

*Globe*, the Mexican government has threatened to retaliate if its trucks are not given broader access to U.S. highways. Canadian trucks have had full access to U.S. roads since 1982.

**Future Action.** The bill now awaits Senate consideration of S. 1501, the Senate's version of the measure. S. 1501 is expected to pass. The Clinton Administration has expressed support for H.R. 2679 as it passed out of the House, despite earlier concerns about the creation of a separate motor carrier safety administration.

## House, Senate Begin Conference on Aviation Bill *Issue of Funding Levels and Mechanism Is Discussion Focus*

As the House-Senate conferees continue to meet on H.R. 1000 to re-authorize the Federal Aviation Administration (FAA), there are signs that the key lawmakers are ready to negotiate year-old differences on aviation funding.

**House Transportation and Infrastructure Chairman Bud Shuster** (R – PA) said he wanted members to focus on ways to "unlock the aviation trust fund" to address the growing needs of the aviation system. **Senate Budget Committee Chairman Pete V. Domenici** (R – NM) responded to Shuster's statement by saying it could be the basis of negotiations. "If we can stay by the word 'unlock,' we can continue to talk for awhile," Domenici said. "I do believe we can look at ways to define the word 'unlock.'"

That exchange could be the start of a process that breaks a two-year deadlock on efforts to craft aviation legislation acceptable to both chambers. Shuster and **Commerce Committee Chairman John McCain** (R – AZ) directed staff to look at the issue and report back early this week.

The question of funding and how to treat the Airport and Airway Trust Fund will dominate the conference. Many Senate conferees, most notably

Domenici, are opposed to erecting budgetary fences around the trust fund. The House bill explicitly takes the trust fund "off-budget," meaning the revenues collected from airline ticket taxes would go exclusively for aviation and would be exempt from the normal appropriations process.

Domenici has said that he opposes off-budget treatment of any trust fund "to protect the integrity of the appropriations process." Domenici stated that he was concerned that providing "automatic expenditures" would put a squeeze on other programs. He also indicated that he was worried about lawmakers following suit with other trust funds.

According to Transportation and Infrastructure staff, most of the provisions have been worked out, but the big question is still on the total funding of the bill. One provision that could have significant importance for Texas is a controversial loan guaranty for the "spaceport" program. Supporters of the program say the loan guarantee is necessary to build a proposed spaceport facility in Texas. The provision has an uphill battle because it would use Airport Improvement Funds to guaranty the estimated \$500 million loan.



## *Happy Halloween!*

The *Federal Flyer* is a publication of the TxDOT Legislative Affairs Office. It is intended to provide up-to-date information on major legislative activities in the 106th Congress for the management of the Texas Department of Transportation, state leaders, and others interested in Texas transportation issues. This report will also feature key activities in the national transportation community. Sources include news services and staff reports.

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